

Section 4

Monitoring for Compliance: Other Facilities

4.1 Collocated Facilities

Classifying Facilities

States must determine whether or not a facility in which juveniles are detained or confined is an adult jail, adult lockup, or a secure juvenile detention center or correctional facility. The JJDP Act prohibits the secure custody of juveniles in adult jails and lockups.¹⁵ Juvenile facilities collocated with adult facilities are considered adult jails or lockups absent compliance with the four criteria listed in this section. A facility adhering to the four criteria would qualify as a separate secure juvenile detention center or correctional facility for the purpose of monitoring for compliance with DSO, jail removal, and separation.

Definitions of Collocated Facilities and Related Complex of Buildings

Collocated facilities. Collocated facilities are facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds.

Related complex of buildings. A related complex of buildings is two or more buildings that share physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or the specialized services such as medical care, food service, laundry, maintenance, engineering services, etc.

Criteria for Collocated Facilities

Each of the following four criteria must be met in order to ensure the requisite separateness of a juvenile detention facility that is collocated with an adult jail or lockup:

- ◆ The facility must ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and adult inmates in the facility. Separation can be achieved architecturally or through time phasing of common use nonresidential areas;

¹⁵ See section 2 for exceptions.

- ◆ The facility must have separate juvenile and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility that provides for a full range of separate program services. No program activities may be shared by juveniles and adult inmates. Time phasing of common use nonresidential areas is permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns;
- ◆ If the state will use the same staff to serve both the adult and juvenile populations, there is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates to be trained and certified to work with juveniles; and
- ◆ In states that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate. If there are no state standards or licensing requirements, OJJDP encourages states to establish administrative requirements that authorize the state to review the facility's physical plant, staffing patterns, and programs in order to approve the colocated facility based on prevailing national juvenile detention standards.

The state must determine that the four criteria are fully met. It is incumbent upon the state to make the determination through an onsite facility (or full construction and operations plan) review and, through the exercise of its oversight responsibility, to ensure that the separate character of the juvenile detention facility is maintained by continuing to fully meet the four criteria set forth above.

Collocated juvenile detention facilities approved by the state and concurred with by OJJDP before December 10, 1996, may be reviewed against the regulatory criteria and OJJDP policies in effect at the time of the initial approval and concurrence or against the regulatory criteria set forth in this section. It is up to the state monitoring agency to determine which criteria will be used. Facilities approved on or after December 10, 1996, must be reviewed against the criteria set forth in this section. A monitoring checklist has been developed by OJJDP for each of the criteria. The use of either checklist is optional and may be found on OJJDP's Web site (ojjdp.ncjrs.org/compliance).

Annual Onsite Review Requirement

An annual onsite review of the facility must be conducted by the compliance monitoring staff person(s) representing or employed by the state agency administering the JJDP Act Formula Grants Program. The purpose of the annual review is to determine if compliance with the criteria listed above is being maintained.

Collocated Facility Reporting Requirements

States must report annually to the Administrator of OJJDP on the results of monitoring for DSO, jail removal, and separation. In addition, the state must conduct annual onsite visits to monitor collocated facilities for the JJDP Act and to verify reported data.

Juvenile facilities collocated with adult facilities are considered adult jails or lockups absent compliance with the four criteria listed in this section and would follow the same reporting requirements as listed for adult jails and lockups in section 2. A collocated juvenile facility adhering to the four criteria would qualify as a separate secure juvenile detention center or correctional facility and would follow the reporting requirements listed for juvenile facilities in section 3.

4.2 Court Holding Facilities

A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons immediately before or after detention hearings or other court proceedings. Court holding facilities, where they do not detain individuals overnight (i.e., are not residential) and are not used for punitive purposes or other purposes unrelated to a court appearance, are not considered adult jails or lockups.

A status offender or delinquent offender placed in a court holding facility is exempt from the deinstitutionalization requirement if the facility meets the criteria listed in the definition above. Facilities, however, remain subject to the separation requirements of the JJDP Act. The separation requirements pertain to status offenders and nonoffenders, and alleged or adjudicated delinquent offenders.

It is important to note that court holding facilities impose an inherent or practical time limitation in that juveniles must be brought to and removed from the facility during the same judicial day.

The state must monitor court holding facilities to ensure they continue to meet the definition and purpose listed above. A court holding facility that does not meet the definition and purpose listed above must be monitored as an adult jail or lockup.

4.3 Adult Prisons

Status Offenders

The JJDP Act prohibits the placement of status offenders and nonoffenders in secure detention facilities or secure correctional facilities. Holding status offenders or nonoffenders in an adult prison¹⁶ would be an immediate violation of the JJDP Act.

Delinquent Offenders

The JJDP Act states that “no juvenile shall be detained or confined in any jail or lockup for adults....” Therefore, the JJDP Act limits the facilities from which juveniles must be removed to adult jails or lockups. The requirement does not apply to adult prisons. Therefore, holding a delinquent offender in an adult prison is not a violation of the jail removal requirement.

It is important to note that the JJDP Act states that “juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have contact with adult persons incarcerated because they have been convicted of a crime or awaiting trial on criminal charges.” Therefore, complete separation must be provided between juvenile delinquent offenders and adult inmates.

Transferred, Waived, or Certified Juveniles

The JJDP Act states that “no juvenile shall be detained or confined in any jail or lockup for adults....” Therefore, it is not a violation of jail removal to hold a juvenile in an adult prison if that juvenile has been formally waived or transferred to criminal court and criminal felony or misdemeanor charges have been filed.

Furthermore, a juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court does not have to be separated from adult criminal offenders pursuant to the separation requirements of the JJDP Act. This is due to the fact that such a juvenile is not alleged to be or found to be delinquent (i.e., the juvenile is under a criminal proceeding, not a delinquency proceeding).

4.4 Nonsecure Community-Based Programs and Facilities

Nonsecure, community-based programs or facilities are exempt for the purposes of monitoring for compliance with DSO, jail removal, and separation. The core protections only apply to secure facilities. For example, a nonsecure residential substance abuse treatment program could include

¹⁶ The term “adult prison” includes any institution used for the postconviction confinement of adult criminal offenders, including work camps and secure facilities located in the community.

both juvenile delinquent or status offenders and adult offenders who are under a sentence for the conviction of a crime.

The state should monitor nonsecure facilities that hold juveniles to verify their nonsecure status. If the facility's status were to change and become secure, the facility must be monitored as an adult jail or lockup or other secure institution if it holds both juveniles and adult offenders. If it holds only juveniles (status offenders and delinquent offenders), it must be monitored as a secure juvenile detention center or correctional facility.

4.5 Secure Mental Health Treatment Units

A juvenile committed to a mental health facility under a separate state law governing civil commitment of individuals for mental health treatment or evaluation would be considered outside the class of juvenile status offenders and nonoffenders. For monitoring purposes, this distinction does not permit placement of status offenders or nonoffenders in a secure mental health facility where the court is exercising its juvenile status offender or nonoffender jurisdiction. The state must ensure that juveniles alleged to be or found to be juvenile status offenders or nonoffenders are not committed under state mental health laws to circumvent the intent of DSO.

There are no restrictions to placing delinquent offenders in a mental health treatment unit. The separation requirement does not apply if the juvenile and adults are held in a mental health facility solely because of a mental health civil commitment.

Summary of the JJDP Act: Other Facilities					
	Shelter, Group Home, or Other Nonsecure or Staff Secure Facility	Adult Prison	Court Holding Facility (must meet definition)	Secure Mental Health Facility	Collocated Juvenile Facility
Accused juvenile status offender or nonoffender	No restrictions on holding.	Secure holding prohibited.	No restrictions if separated from adults.	<p>Status offenders or nonoffenders may not be placed in a secure mental health facility where the court is exercising its juvenile status offender or nonoffender jurisdiction.</p> <p>There are no restrictions on holding any juvenile in a secure mental health facility if the juvenile is held there for the purpose of a mental health civil commitment.</p> <p>The separation requirement does not apply if the juvenile and adults are held in a mental health facility due solely to a mental health civil commitment.</p>	<p>A collocated juvenile facility adhering to the collocated facility criteria qualifies as a separate secure juvenile detention center or correctional facility and has the same holding restrictions as secure juvenile facilities.</p> <p>Absent compliance with the collocated facility criteria, juvenile facilities collocated with adult facilities are considered adult jails or lockups and have the same holding restrictions as adult jails and lockups.</p>
Adjudicated juvenile status offender	No restrictions on holding.	Secure holding prohibited.	No restrictions if separated from adults.		
Status offender accused of violating a valid court order	No restrictions on holding.	Secure holding prohibited.	No restrictions if separated from adults.		
Status offender adjudicated for violating a valid court order	No restrictions on holding.	Secure holding prohibited.	No restrictions if separated from adults.		
Accused juvenile delinquent	No restrictions on holding.	No restrictions if separated from adults.	No restrictions if separated from adults.		
Adjudicated juvenile delinquent	No restrictions on holding.	No restrictions if separated from adults.	No restrictions if separated from adults.		
Juvenile transferred to criminal court and charged with a misdemeanor	No restrictions on holding.	No restrictions on holding.	No restrictions on holding.		
Juvenile transferred to criminal court and convicted of a misdemeanor	No restrictions on holding.	No restrictions on holding.	No restrictions on holding.		
Juvenile transferred to criminal court and charged with or convicted of a felony	No restrictions on holding.	No restrictions on holding.	No restrictions on holding.		
Adult accused of or convicted of a criminal offense	No restrictions on holding.	No restrictions on holding.	No restrictions on holding.		